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ORIGINAL

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GREENE/GUILFORD ENVIRONMENTAL :  
ASSOCIATION, a non-profit corporation :  
incorporated under the laws of the :  
Commonwealth of Pennsylvania, CITIZENS :  
FOR PLANNED COMMUNITY GROWTH, :  
an unincorporated association organized :  
under the laws of the Commonwealth of :  
Pennsylvania, PAUL B. AMBROSE, JOHN G. :  
ENDERS, CHARLES F. RAHAUSER, BETSY :  
RAHAUSER, DOUGLAS A. WARNOCK, U.X. :  
VAGNERINI, THOMAS W. BUNDY, STEPHEN P. :  
BUCHER, ROGER J. ROBERTSON, JAMES A. :  
STRITE, JR., DAVID A. GUTHRIE, :

Plaintiffs, :

v. :

KEN WYKLE, Administrator, Federal :  
Highway Administration, ROBERT GATZ, :  
Federal Highway Administration, :

Defendants, :

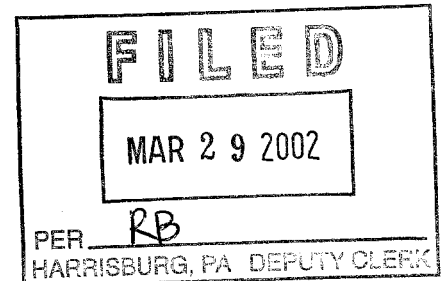
and :

BRADLEY L. MALLORY, Secretary for :  
The Department of Transportation, :  
Commonwealth of Pennsylvania, :

Intervenor. :

CIVIL ACTION NO.  
1:CV-01-0910

(RAMBO, J.)



SUPPLEMENT TO ADMINISTRATIVE RECORD

The federal defendants together with the intevenor hereby  
file additional documents to be included in the administrative

record, pursuant to this Court's order dated March 1, 2002. The parties submit these documents in compliance with the Court's order while respectfully reserving the right to any objection which the Court may entertain at a later time in these proceedings.

Defendants and intervenor continue to maintain that several documents contained in the supplement filed today were not before the federal decision maker and were not considered in rendering the decision which is at issue in this litigation. These documents may therefore be the subject of a relevance objection at an appropriate time. Specifically, internal PennDOT e-mails (paragraphs 5 and 51 of Plaintiffs' Motion to Supplement), PennDOT's final and draft correspondence on which FHWA was not copied (paragraphs 25, 27, 28, 43, 60, and 61 of the Motion), updates prepared by PennDOT for Congressman Shuster (paragraph 37 of the Motion), PennDOT planning documents (paragraphs 30 - 34 of the Motion), PennDOT's policies and guidance documents (paragraphs 38-41 of the Motion), and contracts, work orders and proposals between consultants (paragraphs 2, 15, 54, 56, and 57 of the Motion).

Moreover, in its March 1, 2002 memorandum and order, this Court determined that proceedings before the Agriculture Land Condemnation and Assessment Board (ALCAB) were not part of the FHWA's administrative record. It should follow, then, that internal PennDOT e-mails regarding the ALCAB proceeding should not be included in the record. However, emails related to the

ALCAB proceedings have been included in response to paragraph 5 of Plaintiffs' Motion because they fell within the time frame covered by the court's ruling. Defendants and the intervenor respectfully suggest that inclusion of these e-mails should not be construed as a waiver of their position that the ALCAB proceeding is purely a state condemnation proceeding, separate from the decisions rendered by FHWA under the National Environmental Policy Act and the National Historic Preservation Act and that any documents generated pursuant to those proceedings are not a part of FHWA's administrative record.

E-mails produced pursuant to paragraphs 4 and 5 of Plaintiffs' Motion to Supplement do not include e-mails between FHWA or PennDOT counsel as these are attorney work product, and, finally, PennDOT found no e-mails to Shuster's staff (paragraph 51 of Plaintiffs' Motion).

Respectfully submitted,

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Dated: March 29, 2002

# **SUPPLEMENT TO THE I-81 INTERCHANGE PROJECT ADMINISTRATIVE RECORD**

*MARCH 29, 2002*

<b>PLAINTIFFS' PARAGRAPH REFERENCE No.</b>	<b>PLAINTIFFS' DESCRIPTION OF PARAGRAPH</b>	<b>LOCATION IN AR</b>
Paragraph 1	The 1977 Franklin County Comprehensive Plan	AR-158
Paragraph 2	Contract(s) and work order(s) between the Defendants and Archaeological & Historic Consultants, Inc. for the initial cultural resources study referenced at AR-3 at 115	AR-159 at 001-046
Paragraph 3	Correspondence and/or Memoranda outlining the reasons for the decision not to prepare a Supplemental DEIS (referenced in AR-97 at 999 where the record states "[a]lso enclosed is a copy of the Department's justification for not preparing a supplemental EIS.")	<u>ALREADY FOUND IN AR - 4/17/95 memo found at AR-96 at 0755-0758</u>
Paragraph 4	Electronic mail communications sent between FHWA personnel from January 1999 to June 28, 2001	AR-159 at 047-112
Paragraph 5	PENNDOT personnel electronic mail communications from inception of project to June 28, 2001	AR-159 at 113-139
Paragraph 6	Missing page 2 of January 24, 1989 meeting minutes found at AR-87 at 1	AR-159 at 140-143
Paragraph 9	Map of the "potential avoidance alternative for the I-81 interchange" referenced at AR-100 at 1693	AR-159 at 144-149 and AR-160
Paragraph 15	All work orders and contracts entered into between the Defendants and consultants for work from inception of the project to June 28, 2001	AR-161 to AR-167
Paragraph 16	February 10, 1995 letter from FHWA's "Bill" to "Seppo" which reads "This is a demo project from the 1987 STURAA. It is apparently very important to Bud Shuster. My understanding is that the Division provides him with and [sic] updated status every two weeks."	AR-159 at 150-151

Paragraph 19	June 4, 1998 "Potential Issues with Proposed I-81, D Modified Avoidance Alternative" Memorandum (Page two of the memo is entitled "Air Quality and Noise")	AR-159 at 152-154
Paragraph 20	April 7, 1998 Message from Richard Heimbach of Skelly & Loy to the USDA-NRCS with an attachment entitled "Alternative D Modified, Preliminary Engineering"	<u>ALREADY FOUND IN AR - AR-139 at 560-561</u>
Paragraph 21	July 13, 1998 Draft of the Record of Decision, and all other drafts of the Record of Decision	AR-168
Paragraph 22	August 1998 draft version of "Mitigation Measures and Project Conditions, Interstate 81 Interchange, Franklin County, Pennsylvania." (The December 1998 final version is at AR-77)	AR-169 at 001-028  [Also included is the February 1999 Final of "Mitigation Measures and Project Conditions, Interstate 81 Interchange, Franklin County, Pennsylvania."]
Paragraph 23	October 7, 1998 letter from Ronald Carmichael, FHWA to John Szajna of Nassaux-Hemsley denying access to several documents under a FOIA request	AR-169 at 029-032
Paragraph 24	Missing Page 2 of a July 8, 1994 letter from Barry Hoffman, PENNDOT to Ronald G. Huber. Page 1 and 3 of the communication are included in the record at AR-93 at 481-482.	AR-169 at 033-036
Paragraph 25	Communication and attachment dated June 1, 1994 from L. Nace of PENNDOT to Ron Huber. The attachment contains a policy statement which applies to access point justification requirements.	AR-169 at 037-044
Paragraph 27	Draft of letter from Howard Yersualim to Congressman Shuster, dated June 5, 1992, with the handwritten notations: "Sent to Larry King, 6-5-92 at 4:05 p.m. 7-3154." "Resent to L.K. 6-9-92"	AR-169 at 045-046
Paragraph 28	Draft of letter from Howard Yersualim to Congressman Shuster, dated May 29, 1992	AR-169 at 047-049

Paragraph 30	October 23, 1987 "Twelve Year Highway and Bridge Program," page 431 and an attached to a December 2, 1987 letter from Harvey Haack of PENNDOT to Dr. Paul B. Ambrose.	AR-169 at 050-072
Paragraph 31	April 12, 1988, "Twelve Year Highway and Bridge Program: Project Status Report, Project Description and Location", p. 3	AR-169 at 050-072
Paragraph 32	April 22, 1988, "Twelve Year Highway and Bridge Program: Project Status Report, Project Description and Location", p. 3	AR-169 at 050-072
Paragraph 33	May 11, 1988, "Twelve Year Highway and Bridge Program", p. 415	AR-169 at 050-072
Paragraph 34	July 18, 1989, "Twelve Year Highway and Bridge Program", p. 318	AR-169 at 050-072
Paragraph 35	Original draft of the October 1995 "Addendum to Criteria of Effect Report"	AR-169 at 073-101
Paragraph 36	PENNDOT Design Manual, Part 1, Chapter 2, Section 5, entitled "Justification Requirements for Additional Interchanges, Access Points, and Ramps on Completed Interstates and Other Limited Access Highway Facilities." (Referenced at p. I-1 of the January 1995 "Justification for an Additional Interchange.")	AR-169 at 102-108
Paragraph 37	Monthly Shuster Updates prepared by either FHWA or PENNDOT staff, referred to at AR-113 at 107	AR-169 at 109-179
Paragraph 38	PENNDOT Publication No. 349, March 1998, "The Transportation Project Development Process: Section 4(f) Handbook" Volume I and Volume II	AR-170
Paragraph 39	PENNDOT Publication No. 319, September 1996, "The Transportation Project Development Process: Needs Study Handbook"	AR-171
Paragraph 40	PENNDOT Publication No. 278, March 1993, "The Transportation Project Development Process: Environmental Impact Statement Handbook"	AR-172

Paragraph 41	PENNDOT Publication No. 324, February 1997, "The Transportation Project Development Process: Agricultural Resource Handbook"	AR-173
Paragraph 43	November 13, 1998 Letter from George W. Fike, Chambersburg Area School District, to Barry Hoffman, PENNDOT	AR-169 at 180-184
Paragraph 44	The attachment to the July 13, 1992 letter from U.S. Representative Shuster to PENNDOT Secretary Yerusolim is referenced in index but is not attached to letter at AR-90, p. 21	<u>ATTACHMENT IS LETTER THAT FOLLOWS THE JULY 13, 1992 LETTER AT AR-90 at 21</u> [This item may not have been originally attached when the correspondence was sent out, but the two letters were attached to each other in FHWA files.]
Paragraph 45	Letter from December 29, 2000 from Richard Heimbach of Skelly & Loy to a farmer in the Walker Road area	AR-169 at 185-189
Paragraph 51	Electronic mails sent between PENNDOT and staff for U.S. Representative Shuster and electronic mails sent between staff for Congressman Shuster and FHWA	<u>ALL CORRESPONDENCE WITH U.S. REPRESENTATIVE SHUSTER ALREADY FOUND IN ADMINISTRATIVE RECORD</u>
Paragraph 53	March 1, 1995 Memorandum from Rodney Slater to David Gendell entitled "ACTION: Pennsylvania, Request for Additional Access Points, I-81/Walker Road, Chambersburg	<u>ALREADY FOUND IN AR - AR-95 at 519</u>
Paragraph 54	All proposals for work orders submitted by consultants seeking work orders from PENNDOT and FHWA to work on the planning, design, and engineering of the Interchange project (The January 6, 1995 "Proposal for Work Order No. 4 Agreement No. 085164" submitted by Sheladia Associates, Inc. is included)	AR-174 to AR-176
Paragraph 56	March 20, 1995 letter from Michael Ryan of PENNDOT to Manuel Marks of FHWA, entitled "Agreement No. 085164, Work Order No. 4."	AR-177 at 001-011
Paragraph 57	March 21, 1995 memorandum from William J. Greene of PENNDOT to "Proposal Evaluation for Work Order No. 4."	AR-177 at 012-013

Paragraph 58	April 20, 1989 letter and attachment from Brad Brosius of JMT to Daryl Kerns	AR-177 at 014-019 [Of the two attachments to the transmittal letter, only the alternative descriptions are included. The alternatives graphics that were attached are not included, but are the same figures that are included in AR-2 (Preliminary Alternatives Report).]
Paragraph 60	September 5, 1989 letter with enclosure from John A. Hart, Chief Clerk, Franklin County Commissioners to Harvey Haack, P.E., Deputy Secretary of PENNDOT	AR-177 at 020-023
Paragraph 61	June 12, 1990 letter from Commissioner Joe W. Ausherman to Mr. Robert R. Mueser, P.E., District Engineer, PENNDOT District 8-0	AR-177 at 024-025

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GREENE/GUILFORD ENVIRONMENTAL	:	
ASSOCIATION, et al,	:	CIVIL ACTION NO.
	:	1:CV-01-0910
Plaintiffs,	:	
v.	:	
	:	
KEN WYKLE, et al.,	:	
	:	
Defendants,	:	
	:	
and	:	
	:	
BRADLEY L. MALLORY,	:	
	:	
Intervenor.	:	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers.

That on March 29, 2002, she served a copy of the attached:

SUPPLEMENT TO ADMINISTRATIVE RECORD

by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Harrisburg, Pennsylvania.

Addressee:

Thomas Alan Linzey, Esquire  
COMMUNITY ENVIRONMENTAL LEGAL DEFENSE FUND  
2859 Scotland Road  
Chambersburg, Pennsylvania 17201

  
Naomi Zimmerman  
Legal Assistant